

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

SAM CONSIGLIO,

Plaintiff,

v.

EVETTE HALL, et al.,

Defendants.

Case No. 1:23-cv-00871-SAB (PC)

ORDER DISMISSING ACTION
PURSUANT TO PLAINTIFF'S NOTICE OF
VOLUNTARY DISMISSAL

(ECF No. 6)

Plaintiff is a civil detainee proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. Individuals detained pursuant to California Welfare and Institutions Code § 6600 et seq. are civil detainees and are not prisoners within the meaning of the Prison Litigation Reform Act. Page v. Torrey, 201 F.3d 1136, 1140 (9th Cir. 2000).

On June 20, 2023, Plaintiff filed a notice of voluntary dismissal. (ECF No. 6.)

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993).

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1 Here, no Defendant has filed an answer or motion for summary judgment in this case.
2 Therefore, Plaintiff's notice of dismissal is effective as of the date it was filed, and this case shall
3 be closed. (ECF No. 6.)

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5 IT IS SO ORDERED.

6 Dated: June 21, 2023


UNITED STATES MAGISTRATE JUDGE